

REMARKS/ARGUMENTS

It is asserted that these amendments do not add new matter and are supported by the specification and claims as originally filed. Entry of these claims is respectfully requested. Amended claim 29 finds support in claim 12 initially filed, and in the specification, page 11, lines 12—22, page 12, line 18 and page 14, formula (IV).

Claims 23-52 have been rejected.

Claims 23, 25-27, 31-33, 35-38, 42, 43, 45, and 52 have been amended.

Claims 28-30, 34, and 46-51 are kept unchanged.

Claims 24, 39-41 and 44 have been canceled.

Claims 23, 25-38, 42-43 and 45-52 are pending in the application.

Claims 23-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase “of benzyl/alkynyl type” has been deleted in amended claims. The formulae of the starting mixed alkynyl ether comprising a hydrogen atom on a triple bond and the final mixed alkynyl ether has been added in amended claim 23. The structure of these two products and the position where the alkylation takes place, have been clarified with the above amendments. By the same token, the moiety A finds antecedent basis in claim 23. The phrase “general formula” has been replaced with the phrase “formula” as requested and suggested by the Examiner.

The phrase “, prepared or used in situ by the action of a strong lithiated base on a corresponding amine, alkali metal alcoholates, sodium, and potassium” has been deleted from amended claim 45.

For these reasons, Applicant respectfully requests that the Examiner now reconsider and withdraw the rejection of claims 23-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 23-52 are rejected under 35 U.S.C. 102(b), as being anticipated by, or, in the alternative, under 35 U.S.C. 103(a), as obvious over:

- Kobayashi et al. JACS, 1998, vol. 120, pages 908-919,
- Chong et al., Tetrahedron Letters, vol. 27, no 45, pages 5445-5448.

The claimed process relates to the preparation of a substituted mixed alkynyl ether by reacting a starting mixed alkynyl ether, with an alkylation agent which is a dialkylsulphate or a halide compound, in the presence of an anionisation agent which is an amide base, a metallic alcoholate or an alkali metal.

Kobayashi teaches the preparation of compound (35) by reacting 4-benzyloxy-1-butyne and (3R)-3-méthoxyméthoxynonane with n-butyllithium in THF solvent.

Kobayashi also teaches the preparation of compound (37) by reacting (4S,5S)-5-benzyloxy-4-ethynyl-2,2-dimethyl-1,3-dioxane and 1-bromo(7R)-7-methoxymethoxytridecane with n-butyllithium in THF. Compounds (12) and (13) react on each other, in présence of n-butyllithium.

The process as taught by Kobayashi cannot be used industrially because n-butyllithium is a such a reactive reagent that the reaction is carried out at a temperature of -78°C .

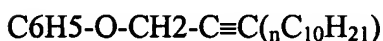
Moreover, the halide compound is a bromide which is also extremely reactive. On the contrary, the instant claimed process makes it possible to carry out the reaction at room temperature and at reflux temperature of the reaction mixture in the presence of an anionisation agent which is an amide base, a metallic alcoholate or an alkali metal.

The fact that the reaction works and gives the targeted product with a good yield (please see example 1), was completely unexpected and could not have been guessed from the Kobayashi publication because:

- the claimed anionisation agents are less reactive by far than n-butyllithium, and
- benzyl group is not modified by side-reactions such as trans esterifications.

Chong and al. teach the alkylation of $\text{BnO}(\text{CH}_3)_2\text{C}-\text{C}\equiv\text{C}(\text{C}_{10}\text{H}_{21})$ or

$\text{BnOCH}_2\text{C}-\text{C}\equiv\text{C}(\text{C}_{10}\text{H}_{21})$ (please see the table of page 5446). The detailed chemical formula of, for example, the last product listed in that table is:



The electrons doublets of the oxygen atom are in resonance with the π electrons of the phenyl group triggering a stabilization of the bounds linked to the oxygen atom.

Thus, that product and the other products of the table are clearly not within the scope of the claimed formula (IV) and it was not possible to guess the claimed process from Chong.

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Serial Number: 10/088,455

AMENDMENT

For these reasons, Applicant respectfully requests that the Examiner now reconsider and withdraw the rejection of claims 23-52 under 35 U.S.C. 102(b), as being anticipated by, or, in the alternative, under 35 U.S.C. 103(a), as obvious over:

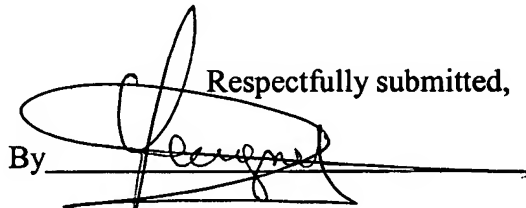
- Kobayashi et al. JACS, 1998, vol. 120, pages 908-919,
- Chong et al., Tetrahedron Letters, vol. 27, no 45, pages 5445-5448.

In view of the preceding remarks, it is asserted that the patent application is in condition for allowance. Should the Examiner have any question concerning these remarks that would further advance prosecution of the claims to allowance, the examiner is cordially invited to telephone the undersigned agent at (609) 860-4180. A notice of allowance is respectfully solicited.

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RN99119.Amend

Respectfully submitted,
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